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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-614

11 **MISCHA LEE MILLER, AKA MISCHA**
12 **LEE THELEN**
13 **5166 Morrice Rd.**
14 **Webberville, MI 48892**
15 **Registered Nurse License No. 560454**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

16 **FINDINGS OF FACT**

17 1. On or about April 9, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
18 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2012-614 against Mischa Lee Miller, aka Mischa Lee
20 Thelen ("Respondent") before the Board of Registered Nursing.

21 2. On or about October 15, 1999, the Board of Registered Nursing ("Board") issued
22 Registered Nurse License No. 560454 to Respondent. The Registered Nurse License expired on
23 June 30, 2001, and has not been renewed. Pursuant to Business and Professions Code ("Code")
24 section 118, this lapse in licensure does not deprive the Board of its jurisdiction to maintain this
25 disciplinary action against Respondent's license.

26 3. On or about April 9, 2012, Respondent was served by Certified and First Class Mail
27 copies of the Accusation No. 2012-614, Statement to Respondent, Notice of Defense, Request for
28 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
2 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
3 on record with the Board was and is:

4 **5166 Morrice Rd.**
5 **Webberville, MI 48892.**

6 On or about April 9, 2012, Respondent was also served by Certified and First Class Mail
7 copies of the Accusation No. 2012-614, Statement to Respondent, Notice of Defense, Request for
8 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
9 the following address:

10 **1721 Donora St.**
11 **Lansing, MI 48910.**

12 4. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

14 5. On or about May 3, 2012, the domestic return receipt, for the aforementioned
15 documents served via Certified Mail at the Lansing, Michigan address, were returned by the U.S.
16 Postal Service indicating that the documents were delivered. The aforementioned documents
17 served via First Class Mail to both addresses were not returned by the U.S. Postal Service marked
18 as undeliverable. The aforementioned documents served via Certified Mail to the Webberville,
19 Michigan, address, were not returned by the U.S. Postal Service marked as undeliverable.

20 6. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 of the accusation not expressly admitted. Failure to file a notice of defense shall
24 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
25 may nevertheless grant a hearing.

26 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
27 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
28 614.

8. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the
hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to

respondent.

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2012-614, finds that the charges and allegations in Accusation No. 2012-614, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$800.00.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Mischa Lee Miller, aka Mischa Lee Thelen has subjected her Registered Nurse License No. 560454 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. **Disciplinary Action by the State of Michigan Board of Nursing.** Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was disciplined by the State of Michigan Board of Nursing ("Michigan Board"). On or about January 5, 2011, pursuant to the Consent Order issued by the Michigan Board, in the disciplinary action entitled *In the Matter of Mischa Lee Thelen, R.N. License No. 47-04-227482*, the Michigan Board suspended Respondent's registered nurse license for a period of six months and one day. The basis for the Order is that on or during August 2010, Respondent obtained 2,270 hydrocodone tablets and 720 zolpidem tablets from Tom's Food Center, in Portland Michigan using fraudulent prescriptions. Respondent readily admits that she has a substance abuse problem.

1 **b. Unprofessional Conduct.** Respondent is subject to disciplinary action under
2 Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct.
3 The conduct is more particularly described in paragraph 3, subparagraph (a), inclusive, above,
4 and herein incorporated by reference.

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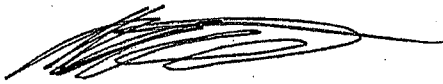
ORDER

IT IS SO ORDERED that Registered Nurse License No. 560454, heretofore issued to Respondent Mischa Lee Miller, aka Mischa Lee Thelen, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.

It is so ORDERED July 5, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID:LA2011505319

Exhibit A

Accusation Case No. 2012-614

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No.

2012-614

11 **MISCHA LEE MILLER AKA MISCHA**
12 **LEE THELEN**
13 **5166 Morrice Rd.**
Webberville, MI 48892
14 **Registered Nurse License No. 560454**

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about October 15, 1999, the Board of Registered Nursing issued Registered
22 Nurse License Number 560454 to Mischa Lee Miller, also known as Mischa Lee Thelen
23 ("Respondent"). The Registered Nurse License expired on June 30, 2001, and has not been
24 renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason
3 provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4 **STATUTORY PROVISIONS**

5 5. Section 118, subdivision (b) of the Code provides, in pertinent part:

6 “(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
7 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
8 order of a court of law, or its surrender without the written consent of the board, shall not, during
9 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
10 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
provided by law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.”

11 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
13 licensee or to render a decision imposing discipline on the license.

14 7. Section 2761 of the Code provides, in pertinent part:

15 “The board may take disciplinary action against a certified or licensed nurse or deny an
16 application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the following:

18 ...
19 (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary
20 action against a health care professional license or certificate by another state or territory of the
United States, by any other government agency, or by another California health care professional
licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
action ...”

21 8. Section 2811, subdivision (b) of the Code provides:

22 “Each such license not renewed in accordance with this section shall expire
23 but may within a period of eight years thereafter be reinstated upon payment of the
24 biennial renewal fee and penalty fee required by this chapter and upon submission
25 of such proof of the applicant's qualifications as may be required by the board,
26 except that during such eight-year period no examination shall be required as a
27 condition for the reinstatement of any such expired license which has lapsed solely
by reason of nonpayment of the renewal fee. After the expiration of such eight-
year period the board may require as a condition of reinstatement that the applicant
pass such examination as it deems necessary to determine his present fitness to
resume the practice of professional nursing.”

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- “In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure.”

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- ### FIRST CAUSE FOR DISCIPLINE

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12. On or about January 5, 2011, pursuant to the Consent Order issued by the Michigan Board, in the disciplinary action entitled *In the Matter of Mischa Lee Thelen, R.N. License No. 47-04-227482*, the Michigan Board suspended Respondent's registered nurse license for a period of six months and one day. The basis for the Order is as follows:

- 3

1 720 zolpidem tablets from Tom's Food Center, in Portland Michigan using fraudulent
2 prescriptions.

3 14. Respondent readily admits that she has a substance abuse problem.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct)**

6 15. Respondent is subject to disciplinary action under Code section 2761, subdivision
7 (a), in that Respondent committed acts of unprofessional conduct. The conduct is more
8 particularly described in paragraphs 12 through 14, inclusive, above, and herein incorporated by
9 reference.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number 560454, issued to Mischa
14 Lee Miller, also known as Mischa Lee Thelen.

15 2. Ordering Mischa Lee Miller, also known as Mischa Lee Thelen to pay the Board of
16 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
17 pursuant to Business and Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.
19
20

21 DATED: April 9, 2012

Stacie Ben

22 for LOUISE R. BAILEY, M.ED., RN
23 Interim Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California
27 Complainant
28

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